

INDEPENDENT POLICE REVIEW AUTHORITY
Log #1072859/U #14-041

06 September 2017

TO: Chief Administrator
Independent Police Review Authority

FROM: Investigator Brian Killen #129

SUBJECT: Log #1072859
U #14-041

REFERENCE: RD #HX-533726, Aggravated Battery

DATE/TIME: 07 December 2014, 1825 hours

INVOLVED

SGT.: WILLINGHAM, Russell L.; Chicago Police Sgt.; Star #1377; Unit 008; white male; employee # [REDACTED]; DOB: [REDACTED] DOA: 10 May 1999; off-duty; civilian clothes.

INVOLVED

SGT.'S

WEAPON: Glock, Model 42, .380 ACP semi-automatic pistol; Serial# [REDACTED]; not registered; FOID # [REDACTED] Hornady ammunition; six-round capacity magazine, which was empty [total weapon capacity 6+1]; 7 casings recovered; see Crime Scene Processing Report #263179; gun in slide-lock, chamber empty, when recovered; TRR indicates 7 shots were fired. Inventory #13329713. (Att. 10)

INVOLVED

SGT.'S

INJURIES: None reported.

WITNESS

OFFICER #1: BURKE, Kevin; Chicago Police Officer; Star #4099; Unit 005; white male; employee # [REDACTED] DOB: [REDACTED]; DOA: 03 June 2013; off-duty, civilian clothes. No reported injury.

WITNESS

OFFICER #2: HALPIN, James; Chicago Police Officer; Star #16132; Unit 008; white male; employee # [REDACTED] DOB: [REDACTED]; DOA: 30 September 2002; off-duty, civilian clothes. No reported injury.

WITNESS

OFFICER #3: HAVELKA, Jeffery; Chicago Police Officer; Star #13551; Unit 008; white male; employee # [REDACTED] DOB: [REDACTED]; DOA: 25 August 2003; off-duty, civilian clothes. No reported injury.

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WITNESS

OFFICER #4: DOUGHERTY, Edward; Chicago Police Officer; Star #10093; Unit 008; white male; employee # [REDACTED]; DOB: [REDACTED] DOA: 02 September 1997; off-duty, civilian clothes. No reported injury.

WITNESS

OFFICER #5: THIRY, Patrick; Chicago Police Officer; Star #17026; Unit 008; white male; employee [REDACTED]; DOB: [REDACTED]; DOA: 26 January 2004; off-duty, civilian clothes. No reported injury.

INJURED

SUBJECT

(DECEASED): [REDACTED] white male, DOB: [REDACTED] [REDACTED] St. Louis Avenue, Chicago, IL, IR#1436538.

SUBJECT'S

INJURIES: Multiple gunshot wounds. Deceased on scene.

INJURED

SUBJECT'S

WEAPON: Beretta 3032 Tomcat; .32 caliber semi-automatic pistol; stainless steel finish; Serial# [REDACTED] not registered; black PB .32-cal. magazine; 6 cartridges recovered from magazine [total weapon capacity 7+1]; 1 live cartridge recovered from chamber. Inventory #13329706. (Att. 10)

INJURED

CIVILIAN

WITNESS: [REDACTED] white male; DOB: [REDACTED] [REDACTED] S. Hamlin Avenue, Evergreen Park, IL.

INJURED

CIVILIAN

WITNESS'

INJURIES: Gunshot wound to the abdomen.

LOCATION:

Inside Blackthorn Pub, 11050 S. Spaulding Avenue (also listed as 3300 W. 111th Street); Beat 933

TIME OF IPRA

NOTIFICATION: 1846 hours

TIME OF IPRA

RESPONSE: 1940 hours

INTRODUCTION:

On 07 December 2014, Sgt. Willingham was off-duty and at the Blackthorn Pub at 11050 S. Spaulding where he observed the subject, [REDACTED] engaged in a verbal altercation with the victim, [REDACTED]. Sgt. Willingham observed Mr. [REDACTED] pull out a gun, point it at Mr. [REDACTED] and shoot him. Mr. [REDACTED] then waved the weapon back and forth at Sgt. Willingham and other bar patrons. Sgt. Willingham announced his office by stating, "Police, police, police," and ordered Mr. [REDACTED] to drop his weapon. When Mr. [REDACTED] did not comply with Sgt. Willingham's verbal commands, Sgt. Willingham, in fear of his life and the lives of the other bar patrons, shot Mr. [REDACTED] multiple times. Mr. [REDACTED] was pronounced dead on arrival by CFD paramedics. Mr. [REDACTED] was transported to Christ Hospital, where he was treated for a gunshot wound to his abdomen.

APPLICABLE RULES

Chicago Police Department General Order, GO 03-02-03; Deadly Force

INVESTIGATION:

Per the **Preliminary Summary Report**, the following information was provided by Deputy Chief Berscott Ruiz, #382, the on-call incident commander, to IPRA personnel during a walk-through of the scene on 07 December 2014, at approximately 2134 hours. Deputy Chief Ruiz provided the information based upon multiple levels of hearsay and not verbatim.

Deputy Chief Ruiz related that, on 07 December 2014, at approximately 1730 hours, Sgt. Willingham, who was off-duty, entered the Blackthorn Pub at 11050 S. Spaulding, to meet some friends. They sat at the west end of the pub over-looking 111th Street. At approximately 1825 hours, Sgt. Willingham heard a verbal exchange between Mr. [REDACTED] who was sitting on the north side of the rectangular bar, and Mr. [REDACTED] who was sitting with friends on the south side of the bar. The argument lasted approximately 30 seconds. Sgt. Willingham walked behind Mr. [REDACTED] and advised him to ignore what [REDACTED] was saying. Sgt. Willingham then returned to his friends.

Approximately five minutes later, Mr. [REDACTED] walked around the bar, and again exchanged words with Mr. [REDACTED]. Sgt. Willingham saw Mr. [REDACTED] pull out a gun from his pocket, point it at Mr. [REDACTED] and fire once. Mr. [REDACTED] began "fanning" his weapon at other persons in the pub. Sgt. Willingham said, "Police, police," and told Mr. [REDACTED] to drop his weapon, which he did not. Sgt. Willingham drew his firearm and fired seven shots at Mr. [REDACTED] who was hit multiple times. One of the shots apparently struck an east window of the pub, breaking an interior pane of glass, but not penetrating an exterior pane. When Mr. [REDACTED] did not fall, off-duty Evergreen Park

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Officer [REDACTED] tackled Mr. [REDACTED] removed his firearm, removed its magazine and placed the gun and magazine on a nearby table.¹

Deputy Chief Ruiz later related to Inv. Lukas that SPAR #537554 was obtained on Sgt. Willingham for failing to register the weapon that he used in this incident. No police vehicle was involved in the incident and no PODs were observed outside the bar. Deputy Chief Ruiz related a video camera inside the pub was recording during the incident, but the recording did not depict the shooting incident. A copy of the recording was to be made for the detectives and for IPRA. (Att. #4)

Victim [REDACTED] is represented by counsel and was advised not to provide IPRA with a statement. (Att. #83)

Departmental Reports for RD #HX-533726 document that an aggravated battery with a handgun was committed by Mr. [REDACTED] in that he shot the victim, Mr. [REDACTED] at the Blackthorn Pub. This incident became a police-involved shooting when Sgt. Willingham shot Mr. [REDACTED] to stop the threat. (Att. #6, 7)

A **Chicago Fire Department Ambulance Report** for Incident #143411525 indicates Mr. [REDACTED] was found lying face down on the ground with multiple gunshot wounds to the chest and abdomen. He had no signs of life and was called in as a Deceased to Holy Cross Hospital. (Att. #16)

A **Chicago Fire Department Ambulance Report** for Incident #143411525 indicates Mr. [REDACTED] was found with multiple gunshot wounds to the right and left flank with no exit wounds. Mr. [REDACTED] was taken to Christ hospital for treatment. (Att. #17)

Medical Records from Advocate Christ Medical Center document Mr. [REDACTED] was brought into the hospital and treated for a gunshot wound² to his abdomen (right upper quadrant and left flank). Upon arrival, Mr. [REDACTED] was hemodynamically stable, but with signs of peritonitis³. According to the History of Present Illness, Mr. [REDACTED] was in a bar drinking when another patron pulled out a gun and shot him in the abdomen. Additionally, it is noted that an off-duty police officer subsequently fatally shot the assailant. Mr. [REDACTED] underwent exploratory laparotomy, and right hemicolectomy, Jejuna resection and primary anastomosis. The following were the findings; multiple jejuna injuries in a segment of approximately 60 cm of jejunum, ~10 cm from the ligament of Treitz; multiple gunshot wounds in the transverse colon, in the hepatic flexure and grade 2 liver lacerations (non-bleeding). The final diagnosis was gunshot wound to the right upper quadrant and left flank, and peritonitis. (Att. #85, starting on p. 69 - 79)

Evidence Technician Photographs were taken of the Blackthorn Pub interior; the body of Mr. [REDACTED] ballistic evidence within the scene; and the firearm reported to belong to Mr. [REDACTED] (Att. #19)

¹ See Crime Scene Processing Reports #263179 and 263194 for recovered evidence. Testing of evidence to be determined.

² Per the medical records, 2 holes, 1 bullet. P. 79 (Att. 85)

³ Medical Records of [REDACTED] from Advocate Christ Medical Center - Peritonitis is an inflammation of the peritoneum, the thin tissue that lines the inner wall of the abdomen and covers most of the abdominal organs. Peritonitis requires prompt medical attention to fight the infection and, if necessary, to treat any underlying medical conditions, page 78. (Att. 85)

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Medical Examiner's Office Photographs depict several fragmented bullets, Mr. [REDACTED] clothing and various images of Mr. [REDACTED] deceased body with close-up images of his gunshot wounds. (Att. #21)

According to the **Medical Examiner's Final Report** for Case #2014-01792 ([REDACTED] [REDACTED] Dr. Marta Helenowski performed the examination of Mr. [REDACTED] who had three penetrating gunshot wounds involving the right arm, left chest, left abdomen and the right flank/back area. He also had two perforating gunshot wounds involving the left arm and left chest. It was noted there was no evidence of close range firing in the skin surrounding the wounds. Mr. [REDACTED] ethanol level in vitreous humor was 390 mg/ml. Dr. Helenowski recovered three fired medium caliber copper-jacketed bullets from Mr. [REDACTED] remains. The opinion was that Mr. [REDACTED] died due to multiple gunshot wounds and his cause of death was homicide. (Atts. #20, 101)

The **Blackthorn Pub** video was grainy and contained three video files showing views from three cameras (#8, 11, and 13). Each of the three files ran for approximately 15 minutes. None of the footage captured the shootings. (Att. #89-91) Camera #11 depicts a white male wearing a dark shirt and hoodie, with dark hair that falls to his neckline (now known as Mr. [REDACTED] seated at the bar. At 5:54:05, Mr. [REDACTED] appears to be fidgeting with something inside of his jacket pocket. At 6:21:54, and 6:22:35 he is shown reaching inside of his jacket pocket again. At 6:22:41, Mr. [REDACTED] got up from the bar and walked east, out of the view of the camera.

At 6:23:22 there appears to be a commotion at the bar in a place out of the camera's view. The bar patrons' attention is directed to an area of the bar that is beyond the camera's view. At 6:23:28 patrons seated at the bar drop to the ground in what appears to be a response to a commotion.

The **CPD Crime Scene Video** was filmed by Evidence Technician Norris, #19686, on 07 December 2014, at approximately 2025 hours. The video has a run time of 05:33 minutes. The footage starts with a view of the street signs at the intersection of Spaulding Avenue and 111th Street. The camera pans to the exterior of the Blackthorn Pub and then into the pub. The inside views of the pub depict what appears to be Mr. [REDACTED]'s deceased body on the floor covered with a white cloth. Also visible on the video are views of the rectangular-shaped bar area, and a small silver handgun which is reported to have been in the possession of Mr. [REDACTED] (Att. #26, 88)

CPD Event Queries document multiple 911 callers reporting a shooting inside of the Blackthorn Pub. Other callers reported a police-involved shooting occurred inside of the bar. (Att. #14)

Sgt. Willingham's **Tactical Response Report** documents that Mr. [REDACTED] was armed, under the influence, did not follow verbal direction, posed an imminent threat of battery with a weapon, and used force likely to cause death or great bodily harm. It was reported that Sgt. Willingham drew his weapon, announced his office, and ordered Mr. [REDACTED] to drop his weapon, after witnessing Mr. [REDACTED] shoot Mr. [REDACTED] Sgt. Willianham stated that Mr. [REDACTED] began waving his weapon in the direction of bar patrons "placing all in the establishment in fear of their lives." Sgt. Willingham then fired his weapon striking Mr. [REDACTED] times. Additionally, a

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SPAR (#537224) was obtained for Violation 8: Failure to comply with Department Directive regarding Personal Weapons or Ammo-Failure to register a weapon. (Att. #8)

Sgt. Willingham's **Officer Battery Report** documents that he was uninjured during his encounter with Mr. [REDACTED] (Att. #9)

Illinois State Police (ISP) Forensic Science Laboratory Reports dated 06 January 2015 reveals that Sgt. Willingham's handgun, a Glock, model 42, 380 Auto caliber semiautomatic Pistol - serial #AAVP237, was examined and determined to be functioning properly. The seven fired cartridge cases that were recovered from the scene were examined and determined to have been fired from Sgt. Willingham's weapon.

Illinois State Police (ISP) Forensic Science Laboratory Reports dated 23 April 2015 – reveals that Mr. [REDACTED] handgun, –a Beretta, model 3032 Tomcat, 32 Auto caliber semiautomatic Pistol with serial #DAA495623 was examined and determined to functioning properly.

A **supplementary Illinois State Police Laboratory Report for RD#HX-533726** documents Mr. [REDACTED] had gunshot residue on both hands. (Att. #98)

Illinois State Police (ISP) Forensic Science Laboratory Reports dated 04 February 2015 documented exhibit 12 – one discharged cartridge case, exhibit 14 – one silver “Beretta” handgun with black grips, exhibit 15 – one empty black magazine, exhibit 16 – six live cartridges and exhibit 17 – one live cartridge were all examined and they did not reveal any latent prints that were suitable for comparison. These exhibits were forwarded to the Firearms Section. (Att. 103)

In a **statement to IPRA** on 07 December 2014, **Witness** [REDACTED] who is an Evergreen Park police officer, stated that on 07 December 2014 he went to the Blackthorn Pub and was sitting on the southwest corner of the bar with his friends, [REDACTED] and Mr. [REDACTED]. Mr. [REDACTED] stated that he observed a man with long dark hair wearing a green hoodie (now known as Mr. [REDACTED]) sitting across from them at the bar. He stated that Mr. [REDACTED] was giving “strange” looks to people and described Mr. [REDACTED] as having “crazy eyes.” He stated that Mr. [REDACTED] “called him out” and said, “What the hell you looking at? Stop fucking looking at me.”⁴ Mr. [REDACTED] stated that, at some point, Mr. [REDACTED] walked up behind Mr. [REDACTED] and “threw a shove, and like a wild punch.” Mr. [REDACTED] stated that he immediately stood up to create a distance and “push them off.” Mr. [REDACTED] stated that he pushed Mr. [REDACTED] away from him and that he was standing about three to four feet away from Mr. [REDACTED]. Mr. [REDACTED] stated that he did not see a firearm in Mr. [REDACTED] hands, though he later learned that he was armed.

Mr. [REDACTED] explained that moments later, he heard a series of gunshots. As Mr. [REDACTED] covered himself and tried to determine where the gunshots were coming from, he observed a man with glasses and a shaved head (now known as Sgt. Willingham). He stated that Sgt. Willingham fired his weapon two or three times at Mr. [REDACTED].

Mr. [REDACTED] observed Mr. [REDACTED] fall to the ground and drop his small silver .380 handgun, which landed about six inches from his hand. Mr. [REDACTED] immediately grabbed Mr. [REDACTED] gun

⁴ Statement of witness Evergreen Park Police Officer [REDACTED] page 5, lines 28 – 29. (Att. 23, 25)

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and cleared it. He stated he that he felt a hand on his shoulder and turned to see Sgt. Willingham, who asked him for identification. Mr. [REDACTED] produced his badge to Sgt. Willingham, who then told Mr. [REDACTED] that he was a Chicago Police Officer in the 22nd District.

After the event had occurred, Mr. [REDACTED] looked around the bar and saw that Mr. [REDACTED] was laying on the ground. It was at this time that Mr. [REDACTED] realized that Mr. [REDACTED] had been shot. Mr. [REDACTED] observed Mr. [REDACTED] lying on the ground. He stated that the police arrived shortly thereafter. Mr. [REDACTED] stated that he believed Sgt. Willingham "probably saved a lot of lives."⁵ (Att. #23, 25)

In a **statement to IPRA** on 07 December 2014, **Witness** [REDACTED] stated that he was at the Blackthorn Pub with his friend, Luke [REDACTED] and they were sitting at the bar facing the front door⁶. Mr. [REDACTED] stated that he was sitting two seats away from Mr. [REDACTED]. Mr. [REDACTED] told him that Mr. [REDACTED] previously worked at the bar, but had "problems." He also stated Mr. [REDACTED] warned him to leave Mr. [REDACTED] alone, stating "he's kind of, you know, out of the ordinary." Mr. [REDACTED] recalled Mr. [REDACTED] "sporadically talking" and "trying to make conversation with anybody." Additionally, he recalled a younger man (now known as Mr. [REDACTED]) sitting across from him on the other side of the bar.

Mr. [REDACTED] stated that he and Mr. [REDACTED] went outside to have a cigarette and when they returned there was a "lil' bit of a scuffle going on."⁷ Mr. [REDACTED] stated that he and Mr. [REDACTED] walked back to their seats and heard "some words being exchanged" between Mr. [REDACTED] and Mr. [REDACTED]. At the time, Mr. [REDACTED] did not think anything of this and was not paying attention to what was being said between the two men. Mr. [REDACTED] stated that suddenly, Mr. [REDACTED] produced a pistol and shot Mr. [REDACTED].

Mr. [REDACTED] recalled seeing the gun in Mr. [REDACTED] hand go off once before he dropped down to take cover. Mr. [REDACTED] stated that he looked up and saw a "bald-headed gentleman" (now known as Sgt. Willingham) shoot Mr. [REDACTED] approximately four times. He recalled that Sgt. Willingham was previously sitting with a group at a table near the front of the bar.

He stated that after shooting Mr. [REDACTED] Sgt. Willingham yelled, "Somebody call 911!" He stated that the woman sitting directly to the east (now known as [REDACTED]) dialed 911 on her phone, but was so shaken up that she could not talk to the dispatcher. Mr. [REDACTED] took her phone and spoke to the dispatcher. Mr. [REDACTED] recalled hearing sirens and stated that he heard people identifying themselves as police officers, including Sgt. Willingham who held his shield up in the air. He concluded his statement by stating that, He was really glad that Sgt. Willingham was there. He said, "cause if it wasn't for him, you know who knows who the guy would shoot at next."⁸ (Att. #28, 30)

In a **statement to IPRA** on 07 December 2014, **Witness** [REDACTED] stated that he was at the Blackthorn Pub with some friends, including [REDACTED] and Mr. [REDACTED]. Prior to the incident, [REDACTED] observed a man (now known as Mr. [REDACTED]) "messing with" Mr. [REDACTED].

⁵ *Id.* Page 19, lines 17 - 18.

⁶ Statement of [REDACTED]. Page 8, line 20. Mr. [REDACTED] stated that he was sitting on the northwest corner of the bar. (Att. 30)

⁷ *Id.* Page 7, lines 16 - 17.

⁸ *Id.* Page 17, lines 3 - 6.

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Mr. [REDACTED] who was sitting across the bar from Mr. [REDACTED] told Mr. [REDACTED] to leave him alone and to stop talking to him. [REDACTED] stated that Mr. [REDACTED] got up, came around the bar, and pushed Mr. [REDACTED]. [REDACTED] said that Mr. [REDACTED] did not have time to react before Mr. [REDACTED] shot him with a small, shiny gun. [REDACTED] stated that an off-duty officer (now known as Sgt. Willingham) proceeded to shoot Mr. [REDACTED] "essentially saving the day because who knows what would've happened if he wasn't there." [REDACTED] stated that the incident occurred very close to the front door on the south side of the bar.

[REDACTED] stated that he saw Mr. [REDACTED] at the Blackthorn before, always very intoxicated, as he appeared to be on this date. [REDACTED] stated that he was within ten feet of Mr. [REDACTED] at the time he was shot. He observed one gunshot wound to Mr. [REDACTED] lower left stomach with no exit wound through his back and another wound to his shoulder. [REDACTED] recalled Sgt. Willingham's gun was a black pistol, possibly a 9mm. [REDACTED] did not recall hearing Sgt. Willingham say anything. (Att. #32, 34)

In a **statement to IPRA** on 07 December 2014, **Witness Luke [REDACTED]** stated that, shortly before the incident, he and his friend, [REDACTED], came back inside of the bar after having gone outside to smoke a cigarette. Mr. [REDACTED] stated that he and his friend were sitting back down when he observed shoving between two men, now known as Mr. [REDACTED] and Mr. [REDACTED]. Mr. [REDACTED] stated that Mr. [REDACTED] "pulled out a gun and started firing." He stated that before he "hit the ground," he saw three muzzle flashes. After Mr. [REDACTED] got back up, he saw Mr. [REDACTED] lying on the ground. Mr. [REDACTED] appeared to be dead. Mr. [REDACTED] was being treated by someone on scene. Mr. [REDACTED] stated that he did not observe Sgt. Willingham shoot Mr. [REDACTED] because he was taking cover on the ground. Mr. [REDACTED] stated that he was familiar with Mr. [REDACTED] because Mr. [REDACTED] used to be a bouncer at the Blackthorn Pub and Mr. [REDACTED] was known for starting fights at the bar. (Att. #36, 38)

In a **statement to IPRA** on 07 December 2014, **Witness [REDACTED]** stated that he observed Mr. [REDACTED] sitting at the bar by himself. [REDACTED] noticed Mr. [REDACTED] "smiling about nothing" and "was off, you could tell." He also recalled that Mr. [REDACTED] was very intoxicated. [REDACTED] stated that Mr. [REDACTED] told Mr. [REDACTED] "Quit looking at me." He stated that no one thought anything of it and they went back to watching football. [REDACTED] was seated next to Luke [REDACTED] on his left and [REDACTED] on his right. He stated that [REDACTED] was seated next to Mr. [REDACTED].

[REDACTED] stated that suddenly it appeared that Mr. [REDACTED] and Mr. [REDACTED] were about to fight. He recalled Mr. [REDACTED] pushing Mr. [REDACTED] and then drawing a gun and pointing it at Mr. [REDACTED] stomach. Mr. [REDACTED] was still seated on his bar stool at the time Mr. [REDACTED] shot him. [REDACTED] stated that he got down on the ground and crawled to the opposite side of the bar, away from the altercation. He stated that he and two other unknown men ran up a staircase, closed a door, and stayed there until the shots stopped. [REDACTED] eventually returned to the bar area where he observed Mr. [REDACTED] and Mr. [REDACTED] on the ground. He did not actually see Sgt. Willingham fire his weapon. (Att. #40, 42)

In a **statement to IPRA** on 07 December 2014, **Witness [REDACTED]** stated that he was standing at the back half of the square-shaped bar with his wife, [REDACTED] when the shooter, a man he knows as "[REDACTED]" (now known as Mr. [REDACTED]) got up from his seat. Mr. [REDACTED] who was seated next to Mr. [REDACTED] wife, began walking east around the bar. Mr.

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█████ assumed that Mr. █████ was leaving, going to the bathroom or going outside to smoke. Mr. █████ observed Mr. █████ have an altercation with a younger man (now known as Mr. █████) on the south side of the bar. Mr. █████ observed Mr. █████ shove Mr. █████ who was seated, and say something to him. He next observed Mr. █████ pull out a small gun, point and fire it at Mr. █████. Mr. █████ stated that within a minute, he saw another man (now known as Sgt. Willingham) with a gun. Sgt. Willingham, was approximately 15-20 feet away from Mr. █████ yelled something and shot at Mr. █████ approximately five to eight times. Mr. █████ stated that he went to look for Mr. █████ in order to offer assistance and observed that Mr. █████ was shot in the left lower rib cage. Mr. █████ was not a witness to any prior altercations between Mr. █████ and Mr. █████. He stated that Mr. █████ did not seem angry prior to shooting Mr. █████ (Att. #44, 46)

In a **statement to IPRA** on 07 December 2014, **Witness** █████ stated that she was at the Blackthorn Pub with her husband, █████ seated in the southwest corner of the bar. Ms. █████ stated that she saw a man, now known as Mr. █████ talking to a gentleman, now known as Mr. █████ who was sitting across from her at the bar. She saw Mr. █████ shove Mr. █████ and state, "You got something to say to me?" Ms. █████ stated that Mr. █████ then shot Mr. █████. She stated that she was scared and ducked under the bar. Ms. █████ stated that she did not witness the officer-involved shooting, but recalled hearing approximately four more gunshots. Ms. █████ stated that she called 911, but was too upset to talk and handed her cell phone to a █████, who was sitting next to her at the bar. When she stood back up, Ms. █████ stated that she began to walk to the door, and observed Mr. █████ lying on the floor. She also observed Mr. █████ who had been shot. Soon after, paramedics and police officers arrived at the scene. (Att. #48, 50)

In a **statement to IPRA** on 07 December 2014, **Witness** █████ stated that he went to the Blackthorn Pub to meet up with a couple of friends, including Mr. █████. Upon entering the bar, he noticed some friends from high school sitting on the corner of the bar and went over to say hello. Mr. █████ proceeded to go to the restroom. When he came back to the bar area, he was standing next to his friend Mr. █████. Mr. █████ stated that he heard Mr. █████ yelling at a man sitting across the bar from him, (now known was Mr. █████). He stated that Mr. █████ told Mr. █████ "Stop fuckin' starin' at me, and sayin' shit to me."⁹ Mr. █████ stated that Mr. █████ replied by stating, "Sorry, I fucked up. OK, I fucked up, alright."¹⁰ Mr. █████ replied by stating, "Don't tell me you fucked up, just quit fuckin' lookin' at me. Just leave me alone. Quit fuckin' lookin' at me."¹¹ Mr. █████ stated that he then observed Mr. █████ stand up and go tell an unknown man in a hooded sweatshirt, "I'm about to go put a bullet in this guy."¹² Mr. █████ told Mr. █████ "This guy just said he's going to put a bullet in you."¹³ Mr. █████ laughed no realizing that Mr. █████ was a real threat.

Mr. █████ stated that Mr. █████ appeared to walk toward the door and then began walking toward them. As Mr. █████ got closer, Mr. █████ observed Mr. █████ pull a shiny gun out of his pocket. Mr. █████ stated that Mr. █████ appeared to have "tunnel vision". He

⁹ Statement of █████ page 5, lines 13 and 14. (Att. 54)

¹⁰ *Id.* Page 5, lines 16 – 17.

¹¹ *Id.* Page 5, lines 19 – 21.

¹² *Id.* Page 6, lines 7 – 8.

¹³ *Id.* Page 7, lines 16 – 17.

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recalled seeing Mr. [REDACTED] walk up to Mr. [REDACTED] and state, "How about now or never?"¹⁴ Mr. [REDACTED] raised his hands up in the air and stated, "Whoa, whoa not me," as he walked around the bar and got away from the area. Mr. [REDACTED] then heard two gunshots followed by a rapid succession of four to seven gunshots. He stated that he did not actually witness any shots fired as he ducked down and followed two other people up some stairs. Mr. [REDACTED] stated that he was not a witness to the police-involved shooting. (Att. #52, 54)

In a **statement to IPRA** on 07 December 2014, **Witness** [REDACTED] stated that she was working as a bartender at the Blackthorn Pub on the night of the shooting. She recalled "[REDACTED] [REDACTED] was seated at the bar next to his friend, [REDACTED] Ms. [REDACTED] stated that there was a confrontation between Mr. [REDACTED] and "Matt" (Mr. [REDACTED]). She stated that when Mr. [REDACTED] "drinks a lot, he talks a lot of crap." Ms. [REDACTED] stated that he told her that she was "fucking horrible" multiple times throughout the evening. She also stated that he drank three beers during the approximately two hours he was at the bar. Ms. [REDACTED] recalled Mr. [REDACTED] telling Mr. [REDACTED] to leave him alone. Ms. [REDACTED] stated that she tried to explain to Mr. [REDACTED] "how Tommy is" and to just ignore him. She stated that Mr. [REDACTED] did not know Mr. [REDACTED] prior to that night. Ms. [REDACTED] stated that she went to the cooler (located within the bar area) to get a beer for "Sue" ([REDACTED]) when she heard a confrontation. She stated that she looked back and saw Mr. [REDACTED] making his way around the bar to Mr. [REDACTED] so she walked back toward Mr. [REDACTED]. She stated that Mr. [REDACTED] walked up to Mr. [REDACTED] and pushed him. Ms. [REDACTED] stated that Mr. [REDACTED] turned around and his friend, "Kevin" (now known as Officer Kevin Burke) told Mr. [REDACTED] that they did not want any problems and attempted to calm him down. She stated that she never saw Mr. [REDACTED] gun, but heard a "pop." Ms. [REDACTED] stated that a Sgt. (now known as Sgt. Willingham) then fired his weapon approximately five times. She described Sgt. Willingham as being in his late fifties, bald, and wearing glasses. Ms. [REDACTED] stated that Mr. [REDACTED] immediately fell to the ground. Thereafter, she grabbed the phone to call 911 and went into the office. (Att. #56, 58)

In a **statement to IPRA** on 08 December 2014, **Witness** [REDACTED] stated that he was at the Blackthorn Pub and went outside to have a cigarette when he heard a gunshot, followed by four or five additional gunshots. Mr. [REDACTED] stated that he looked into a window and saw a man (Mr. [REDACTED]) fall to the ground. He stated that he went back inside the bar and observed "a police officer standing over the victim." Mr. [REDACTED] stated the police officer (now known as Sgt. Willingham) pointed at him and directed him to call 911. He stated that the other man who was shot (Mr. [REDACTED]) was on the other side of the bar. Mr. [REDACTED] observed police officers arrive and tape the crime scene. He stated that he "hung around the bar and watched the police officers taking pictures of the crime scene." Mr. [REDACTED] heard someone say "One guy shot another guy in the wrist and then the police officer came over and shot him."¹⁵ (Att. #60, 63)

In a **statement to IPRA** on 08 December 2014, **Witness Officer Patrick Thiry, #17026, Unit 008**, stated that he was off-duty when he arrived at the Blackthorn Pub on 07 December 2014, at approximately 1500 hours, to meet up with Officer Havelka, Officer Halpin, Officer Dougherty, and Lt. McFarland. Officer Thiry stated that Sgt. Willingham showed up at some point later. He recalled that they sat at a table by the window on the 111th Street side. Officer Thiry was watching a football game and recalled hearing a commotion to his right. However, he did not pay any attention

¹⁴ *Id.* Page 8, line 21.

¹⁵ Statement of [REDACTED] page , line . (Att. 63)

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to it and went back to watching the game. A short time later he observed a man (now known as Mr. ██████████) walk around the bar toward a group of four white men sitting to his right. Officer Thiry saw Mr. ██████████ approach a man (now known as Mr. ██████████) push his head and say something to the effect of, "You wanna talk shit or you wanna fuckin' make fun of me?"¹⁶ Officer Thiry turned back around toward his table and heard someone scream, "He's got a gun! He's got a gun!" Officer Thiry turned back around and observed Mr. ██████████ shoot Mr. ██████████ in his stomach once. Officer Thiry observed Sgt. Willingham, who was standing to his right, draw his weapon and yell, "Police, police," and fire his weapon five or six times. He then observed an unknown person (now known as Evergreen Park Police Officer ██████████) grab and place Mr. ██████████ small silver gun on a table. Officer Thiry stated that he later learned that there were other officers at the bar, but he did not know their names. (Att. #64, 65)

In a **statement to IPRA** on 08 December 2014, **Witness Officer Kevin Burke, #4099, Unit 005 (detailed to Unit 412)**, stated that he was off-duty and at the Blackthorn Pub with Mr. ██████████ (his brother), ██████████ and "██████████". He stated that they were sitting in the southwest corner of the bar watching football. Mr. ██████████ was sitting across the bar from them and was being "antagonistic"¹⁷ toward Mr. ██████████ by swearing at him from across the bar. He stated that this went on for about twenty to twenty-five minutes. Officer Burke said he told Mr. ██████████ to "relax" and "ignore" Mr. ██████████. He stated that five minutes later Mr. ██████████ walked around the bar toward Mr. ██████████ and pushed him with his left hand and shoulder. Mr. ██████████ then drew a weapon and fired at Mr. ██████████ with his right hand from his lower hip area. Mr. ██████████ raised his weapon again, at which time "the off-duty officer" (now known as Sgt. Willingham) grabbed and pushed Officer Burke aside.

He stated Sgt. Willingham said, "Gun, gun, gun," and "Police, police, police,"¹⁸ before discharging his weapon. He also recalled hearing someone state, "Drop the gun, drop the gun,"¹⁹ but was not sure exactly who stated this language. Officer Burke stated that he heard at least four gunshots. He never actually saw Sgt. Willingham pull the trigger because he was standing directly behind him as he was firing. Officer Burke noted that Mr. ██████████ had a gunshot wound to his abdomen. Officer Burke stated that he did not see anyone else have contact with Mr. ██████████ (Att. #66, 67)

In a **statement to IPRA** on 08 December 2014, **Witness Officer Edward Dougherty, #10093, Unit 008**, stated that he was off-duty and at the Blackthorn Pub watching football with Officers Halpin, Havelka, and Thiry. Sgt. Willingham met up with them sometime later at approximately 1730 hours. Officer Dougherty stated that he saw a verbal altercation between two unknown bar patrons (now known as Mr. ██████████ and Mr. ██████████) who were sitting across the bar from each other. Officer Dougherty saw one of the patrons get up, walk around the bar and push a couple of patrons. He then heard a loud "pop" and observed Sgt. Willingham discharge his weapon several times.

Officer Dougherty stated that he did not actually see Mr. ██████████ holding the gun or discharge his weapon at Mr. ██████████ because people were standing in front of him. Officer Dougherty was seated at the same table that Sgt. Willingham was standing at. He stated that he did

¹⁶ Statement of PO Patrick Thiry, page 11, lines 11 – 13. (Att. 65)

¹⁷ Statement of PO Kevin Burke, page 8, line 15. (Att. 67)

¹⁸ *Id.* Page 17, line 14.

¹⁹ *Id.* Page 17, lines 22 - 27.

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not hear Sgt. Willingham announce his office, but admitted that he suffers from hearing problems. Officer Dougherty stated that after the shooting, he went around the bar and checked on the patrons, and identified himself as a police officer. He asked them to stay at the bar in order to speak to the detectives. Officer Dougherty did not have any verbal or physical contact with [REDACTED] or Mr. [REDACTED] while at the bar. Officer Dougherty believed that Sgt. Willingham had no other option to stop Mr. [REDACTED] threat of deadly force and had to discharge his weapon. (Att. #69, 70)

In a **statement to IPRA** on 08 December 2014, **Witness Officer Jeffrey Havelka, #13551, Unit 008**, who was off-duty at the time of the alleged incident, stated essentially the same account of the incident as Officer Dougherty. He recalled that the offender (now known as Mr. [REDACTED]) got up and walked around the bar and pushed a guy sitting down (now known as Mr. [REDACTED]). Officer Havelka stated that he heard a "pop," so he looked in that direction where [REDACTED] was located and observed that he had a gun. He observed Sgt. Willingham return fire, after stating "Gun, gun, gun, police". Officer Havelka stated that he called 911 and waited for the paramedics and the police by the front door. Officer Havelka stated that neither he nor any of the officers that were at his table had any physical contact with Mr. [REDACTED]. He believed that Sgt. Willingham had no other option to stop the threat. (Att. #72, 73)

In a **statement to IPRA** on 08 December 2014, **Witness Officer James Halpin, #16132, Unit 008**, stated essentially the same account of the incident as the other police officers. He stated that he observed a verbal altercation between a dark-haired, middle-aged man with facial hair (now known as Mr. [REDACTED]) and a group of younger men sitting across the bar from Mr. [REDACTED]. Officer Halpin recalled Mr. [REDACTED] walked around the bar and up to these men. He stated that he saw a gun in Mr. [REDACTED] right hand and yelled, "Gun!" Officer Halpin then heard a gunshot. Next, he heard, "Police, police, police," and observed Sgt. Willingham run toward Mr. [REDACTED] and discharge his weapon "a couple times." He believed that Sgt. Willingham had no other option to stop the threat. (Att. #75, 76)

In a **statement to IPRA** on 08 December 2014, **Involved Member Sgt. Russell Willingham, Unit 008**, stated that he arrived at the Blackthorn Pub at approximately 1730-1745 hours on 07 December 2014, the night of the shooting. Sgt. Willingham stated that he was at a table close to the windows over-looking 111th Street with some members of his tactical team: Officers Thiry, Havelka, Halpin, and Dougherty. He stated that they were all off-duty and watching football. Sgt. Willingham stated that he observed Mr. [REDACTED] sitting on the north side of the sit up bar at about the middle of the bar when he engage in a verbal altercation with some men sitting across the bar from him. Sgt. Willingham stated that he briefly spoke to Mr. [REDACTED] and a 5th District officer (now known as Officer Burke) and told them he had seen Mr. [REDACTED] around the bar, and to ignore him because he was an alcoholic. He indicated that when Mr. [REDACTED] talks, he makes gestures to himself. Sgt. Willingham went back to watching football. A short time later, Sgt. Willingham observed Mr. [REDACTED] walk around the bar, go into his pocket, and removed a chrome handgun.

Sgt. Willingham yelled, "He's got a gun! He has a gun! He's got a fucking gun!" Sgt. Willingham stated that Mr. [REDACTED] who was face to face with Mr. [REDACTED] stated, "Who's laughing now," at which time he shot Mr. [REDACTED]. Sgt. Willingham reached into his pocket and removed his pistol. Mr. [REDACTED] then shot Mr. [REDACTED]. Sgt. Willingham observed Mr. [REDACTED] fanning his gun around the bar and toward him. Sgt. Willingham stated that he announced "Police,"

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pushed his firearm out with both hands and stepped forward with his left foot while stating, "Police, police." Sgt. Willingham stated that he was in fear for his life and the lives of everyone in the bar.

Sgt. Willingham stated that he fired a total of seven rounds, as he had six rounds in the magazine and one in the chamber. Sgt. Willingham stated that as he fired, Mr. [REDACTED] fell to the ground. He stated that the Evergreen Park police officer (now known as [REDACTED]) grabbed Mr. [REDACTED] arms and took the firearm out of his hand. Mr. [REDACTED] then cleared Mr. [REDACTED] firearm and set it on top of a high top table.

Sgt. Willingham stated that he told the bartender, Ms. [REDACTED] to call 911. He the instructed Officer Havelka to call Lt. McFarland, the lieutenant of their tactical team, and tell him to come to the bar immediately. Sgt. Willingham stated that an off-duty officer (now known as Officer James Halpin) came into the pub and ordered him to guard Mr. [REDACTED] gun. Sgt. Willingham did not know if Mr. [REDACTED] had fired more than once. Sgt. Willingham stated that he did not see any of the off-duty officers that were at the pub draw or discharge their weapons or have any physical contact with Mr. [REDACTED]. Sgt. Willingham stated that paramedics and officers arrived a short time later. (Att. #78, 79)

[REDACTED]
Investigator Brian Killen, #129

[REDACTED]
Summary Report completed by
Investigator Maira Webb, #112

Approved:

[REDACTED]
Joshua Hunt
Deputy Chief Administrator, IPRA

ANALYSIS

CPD Policy, Illinois State Statute, & Constitutional Standards

This investigation found that Officer Willingham's use of deadly force was in compliance with Chicago Police Department policy and Illinois State statutes. According to the Chicago Police Department's General Order 02-08-03, III:

- A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
1. to prevent death or great bodily harm to the sworn member or to another person, or;
 2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

Sgt. Willingham was off-duty and at the Blackthorn Pub when he observed Mr. [REDACTED] engage in a verbal altercation with the victim, Mr. [REDACTED]. Sgt. Willingham observed Mr. [REDACTED] pull out a gun, point it at Mr. [REDACTED] and shoot him. Mr. [REDACTED] then waved the weapon back and forth at Sgt. Willingham and other bar patrons. Sgt. Willingham announced his office by stating, "Police, police, police," and ordered Mr. [REDACTED] to drop his weapon. When Mr. [REDACTED] did not comply with Sgt. Willingham's verbal commands, Sgt. Willingham shot Mr. [REDACTED] multiple times.

Based on the totality of the circumstances Sgt. Willingham was justified in using deadly force because it was reasonable for him to believe that he was in danger of death or great bodily harm when Mr. [REDACTED] shot Mr. [REDACTED] and waved the gun back and forth at Sgt. Willingham and other patrons. A Chicago Police Officer is permitted to use deadly force based on: Chicago Police Department's Policy regarding the use of deadly force, Illinois State Statute, and applicable standards within the United States Constitution.

The legal standard in Illinois regarding the use of deadly force is identified in Illinois State Statute 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

...a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened

resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

Lastly, determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. Graham v. Connor, 490 U.S. 386, 397 (1989); see Estate of Phillips v. City of Milwaukee, 123 F.3d 586, 592 (7th Cir. 2003).

The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." Graham, 490 U.S. at 396 (citing Tennessee v. Garner, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation "must embody allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Graham, 490 U.S. at 396-97. Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force." Muhammed v. City of Chicago, 316 F.3d 380, 383 (7th Cir. 2002) (quoting Sherrod v. Berry, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)).

When Mr. [REDACTED] shot Mr. [REDACTED] and subsequently waved his gun at Sgt. Willingham and other patrons, it was reasonable for Sgt. Willingham to believe that his life was in danger. The incident occurred quickly, without warning, and Sgt. Willingham had to make a split second judgment as to his safety as well as the safety of the patrons at the bar.

Mr. [REDACTED] had committed a violent forcible felony and was clearly capable of continuing to harm other persons in the bar, to include Sgt. Willingham. The totality of the circumstances indicate that Sgt. Willingham was in compliance with the statute "to prevent death or great bodily harm to the sworn member or to another person" because he reasonably believed that his life and the lives of the other bar patrons were in imminent danger when Mr. [REDACTED] shot a man, failed to drop his weapon at Sgt. Willingham's command, and fanned it around in a crowded bar.

Ap[REDACTED]

Sharon Fairley
Chief Administrator, IPRA